

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS, NUMBER 94-0794  
CONTROLLED SUBSTANCE EXCISE TAX  
For the Period: 1994**

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**ISSUE****I. Controlled Substance Excise Tax – Liability**

**Authority:** Ind. Code § 6-7-3-5; Ind. Code § 6-8.1-5-1.

The taxpayer protests the assessment of controlled substance excise tax.

**STATEMENT OF FACTS**

The taxpayer was arrested by the Morgan County Sheriff's Department on September 16, 1994, for possession of marijuana. A total of 4,576 grams of marijuana was confiscated from the taxpayer. On October 3, 1994, a jeopardy assessment was made by the Department of Revenue and served on the taxpayer. The taxpayer filed a timely notice of protest of the assessment by counsel. Counsel has since notified the Department that he no longer represents the taxpayer in this matter. Attempts have been made to contact the taxpayer directly, both through the U.S. Mail and by telephone, using the best information available to the Department. There has not been any response from the taxpayer. A hearing on the protest was scheduled for 10:00 a.m. on October 7, 1999. The taxpayer was notified of the hearing at his last known address. The taxpayer did not appear for the hearing. Further facts will be provided as necessary.

**I. Controlled Substance Excise Tax – Liability**

**DISCUSSION**

In Indiana, the manufacture, possession, or delivery of marijuana is taxable. Ind. Code § 6-7-3-5. Since no taxes were paid on the marijuana in the taxpayer's possession, the Department of Revenue assessed the tax against the taxpayer and demanded payment. "The notice of a proposed assessment is *prima facie* evidence that the department's claim is valid." Ind. Code § 6-8.1-5-1(b). The taxpayer has the burden of proving that the proposed assessment is wrong. Id. Since the taxpayer did not appear at the hearing, or offer any written information in lieu of a hearing, the Department relies on the contents of the taxpayer's file in deciding this matter. The Controlled Substance Excise Tax properly applies to the taxpayer in this case.

**FINDING**

The taxpayer's protest is denied.